

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SENSOR-TECH INNOVATIONS LLC,

Plaintiff,

V.

XYLEM INC. AND YSI INCORPORATED
D/B/A AANDERAA DATA
INSTRUMENTS, INC.,

Defendants.

Civil Action No. 2:15-cv-1422

JURY TRIAL DEMANDED

PLAINTIFF SENSOR-TECH INNOVATIONS LLC'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sensor-Tech Innovations LLC (“Plaintiff” or “Sensor-Tech”) files this Complaint against Defendants Xylem Inc. and YSI Incorporated d/b/a Aanderaa Data Instruments, Inc. (collectively, “Defendants”) and alleges as follows:

PARTIES

1. Plaintiff Sensor-Tech is a Texas Limited Liability Company with its principal place of business in Austin, Texas.

2. Upon information and belief, Defendant Xylem Inc. is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business located at 1 International Drive, Rye Brook, New York 10573. Defendant may be served with process through its registered agent The Corporation Trust Company, 251 E. Ohio Street, Suite 1100, Indianapolis, Indiana 46204.

3. Upon information and belief, Defendant YSI Incorporated is a wholly owned subsidiary of Xylem Inc. organized and existing under the laws of the State of Ohio, with its principal place of business located at 1700/1725 Brannum Lane, Yellow Springs, Ohio 43587.

Defendant may be served with process through its registered agent CT Corporation System, 1300 East Ninth Street, Cleveland, Ohio 44114.

4. Upon information and belief, Aanderaa Data Instruments, Inc. is a registered trade name of YSI Incorporated.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code.

6. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, Defendants are subject to this Court's general and/or specific personal jurisdiction because each (a) is a resident of the State of Texas; (b) has designated an agent for service of process in the State of Texas; (c) has committed acts of infringement in the State of Texas as alleged below; and/or (d) is engaged in continuous and systematic activities in the State of Texas.

8. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have a regular and established place of business in this district, and/or have transacted business in this district, and/or have committed, contributed to the commitment of, and/or induced acts of patent infringement in this district.

THE PATENT-IN-SUIT

9. On January 7, 2003, the United States Patent and Trademark Office issued United States Patent No. 6,505,086 ("the '086 Patent") entitled "XML Sensor System," a true copy of which is attached as Exhibit 1.

10. Plaintiff is the owner by assignment of the '086 Patent and owns all right, title and interest in the '086 Patent, including the right to sue for and recover all past, present and future damages for infringement of the '086 Patent.

BACKGROUND

11. On information and belief, Defendants are in the business of selling scientific instrumentation and sensor communication systems for oceanographic and other environmental measurements.

12. On information and belief, Defendants engage in electronic commerce conducted on and using at least, but not limited to, the website <http://www.aanderaa.com/>.

13. On information and belief, Defendants own, operate, and/or direct the operation of the website <http://www.aanderaa.com/>, which displays sensor communication systems for use and sale including, but not limited to, the Tide Sensor 4647/4647R, Wave and Tide Sensor 4648/4648R, Wave and Tide Sensor 5217/5217R, Wave and Tide Sensor 5218/5218R, SeaGuard Water Level Recorder ("SeaGuard WLR"), SeaGuard Wave and Tide Recorder ("SeaGuard WTR"), SeaGuard Conductivity, Temperature and Depth ("SeaGuard CTD"), Vented Pressure 4425/4426/4427, Vented Tide 4445/4446, Vented Wave 4428/4429, SeaGuard Oxygen Recorder ("SeaGuard O2"), SeaGuard Recording Current Meter ("SeaGuard RCM"), Pressure Sensor 4117, Oxygen Optode 4330/4330F, Oxygen Optode 4835, SmartGuard, and SeaGuard String System.

14. A chart showing an example of Defendants' sensor communication systems is attached hereto as Exhibit 2.

15. On information and belief, Defendants have made and continue to make available to their customers sensor communications systems for taking oceanographic and other environmental measurements.

16. Defendants' sensor communication system includes at least one sensor adapted to transmit a sensor data file in XML format. For example, Defendants provide several sensors that support "[r]eal-time XML output," which comprises a "sensor data file in XML format." *See, e.g.,* Exhibit 2.

17. Defendants' sensor communication system includes a data server means adapted to receive the sensor data file from the at least one sensor. For example, Defendants' SmartGuard and SeaGuard interface with Defendants' sensors to receive sensor data files. *See, e.g.,* Exhibit 2.

18. Defendants' sensor communication system includes a data store communicatively coupled to the data server means. For example, SmartGuard is capable of providing XML data records that are stored on a "removable SD memory card," which provides "[l]arge onboard data storage capacity." *See, e.g.,* Exhibit 2. Similarly, the SeaGuard String System provides a "[l]arge storage capacity on an SD card." *See id.*

19. Defendants' sensor communication system also includes a data reporting means communicatively coupled to the data store. For example, the "Aanderaa Real-Time Collector is an application that connects to the Aanderaa Real-Time enabled devices. Aanderaa Real-Time Collector receives transmitted data and provides a powerful interface for easy and efficient access to the data from higher level applications like display programs, databases[,] etc." *See, e.g.,* Exhibit 2. The Real-Time Collector is "a data reporting means communicatively coupled to the data store" because it "provides a powerful interface for easy and efficient access to the data" generated by sensors and transmitted to the data store (*e.g.,* the SmartGuard, SeaGuard String System, Real-Time Collector, or a combination thereof). *See, e.g.,* Exhibit 2.

CLAIM 1 – INFRINGEMENT OF U.S. PATENT NO. 6,505,086

20. Defendants have been and are now directly infringing one or more claims of the '086 Patent in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale or

importing in the United States sensor communications systems that transmit information in XML file format.

21. In addition and/or in the alternative, Defendants have been and/or are now indirectly infringing one or more claims of the '086 Patent and are continuing to engage in such indirect infringement in violation of 35 U.S.C. § 271(b) by inducing customers to directly infringe the '086 Patent through their use of the infringing instrumentalities. Defendants induce such infringement by at least making their sensor communications systems available to customers and providing instructions on their proper use and operation, including by establishing the manner and time of such use and operation. Defendants engage in such activities knowingly and, at least from the time of receipt of the present complaint, have done so with the knowledge that such activity encourages end users to directly infringe the '086 Patent.

22. Exhibit 2 provides a chart showing Defendants' direct infringement of the '086 Patent.

23. As a direct and proximate consequence of the acts and practices of the Defendants in infringing, directly and/or indirectly, one or more claims of the '086 Patent, Plaintiff has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

24. The limitation of damages provision of 35 U.S.C. § 287(a) is not applicable to Plaintiff.

DEMAND FOR JURY TRIAL

25. Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sensor-Tech Innovations LLC requests entry of judgment that:

1. Defendants have infringed the Patent-in-Suit;
2. Defendants account for and pay to Plaintiff all damages caused by their infringement of the Patent-in-Suit;
3. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of one or more of Defendants' patent infringement;
4. Costs be awarded to Plaintiff; and
5. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: August 20, 2015

Respectfully submitted,

BUETHER JOE & CARPENTER, LLC

/s/ Christopher M. Joe
Christopher M. Joe (Lead Counsel)
State Bar No. 00787770
Chris.Joe@BJCIPLaw.com
Eric W. Buether
State Bar No. 03316880
Eric.Buether@BJCIPLaw.com
Niky Bukovcan
State Bar No. 24078287
Niky.Bukovcan@BJCIPLaw.com

1700 Pacific Avenue
Suite 4750
Dallas, Texas 75201
Telephone: (214) 466-1272
Facsimile: (214) 635-1828

**ATTORNEYS FOR PLAINTIFF
SENSOR-TECH INNOVATIONS LLC**

CERTIFICATE OF SERVICE

Pursuant to Local Rule CV-5(c), the undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on this 20th day of August, 2015. Any other counsel of record will be served by facsimile transmission.

/s/ Christopher M. Joe
Christopher M. Joe